

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

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|---|---|----------------------------|
| Armando Despaigne Zulveta, |) | |
| |) | |
| Plaintiff, |) | C.A. No. 6:15-2880-HMH-KFM |
| |) | |
| vs. |) | OPINION & ORDER |
| |) | |
| State Automobile Mutual Insurance |) | |
| Company; Philpot Law Firm, PA; |) | |
| TC Unlimited, Inc.; Steadman Hawkins |) | |
| Clinic of the Carolinas; Wilson, Jones, |) | |
| Carter, & Baxley, PA; Robert P. |) | |
| Restrepo, Jr.; Stephen R. Bruner; |) | |
| Irvin H. Philpot, III; Tim Case; |) | |
| Curtis Elliot; and Wesley J. Shull, |) | |
| |) | |
| Defendants. |) | |

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Kevin F. McDonald, made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina.

The magistrate judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the magistrate judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1) (2006).

The Plaintiff filed no objections to the Report and Recommendation. In the absence of objections to the magistrate judge's Report and Recommendation, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983). The court must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts Magistrate Judge McDonald's Report and Recommendation and incorporates it herein. Further, the court has conducted a de novo review of the Plaintiff's motion for default judgment as to all defendants [ECF No. 71] that was mailed prior to the issuance of the Report and Recommendation, but was not received until after the Report and Recommendation was issued. This motion is duplicative and raises no new grounds. Further, for the reasons stated within the Report and Recommendation, it is without merit.

It is therefore

ORDERED that Defendants Tim Case and TC Unlimited, Inc.’s (“the Case defendants”) motion for leave to file a late answer or otherwise plead, docket entry 21, is granted; it is further

ORDERED that the Plaintiff’s motions for default judgment as to the Case defendants, docket entry 35, and as to all defendants, docket entry 49, are denied; it is further

ORDERED that the Plaintiff’s motions to strike the Case defendants’ motion, docket entry 34, and to strike the Case defendants’ response in opposition to the first motion for default judgment, docket entry 48, are without merit and are denied; and it is further

ORDERED the Plaintiff’s motion for default judgment as to all defendants, docket entry 71, is denied.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
November 17, 2015

NOTICE OF RIGHT TO APPEAL

The Plaintiff is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.